

INSURANCE CODE

TITLE 13. REGULATION OF PROFESSIONALS

SUBTITLE D. OTHER PROFESSIONALS

CHAPTER 4152. REINSURANCE INTERMEDIARIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 4152.001. DEFINITIONS. In this chapter:

(1) "Actuary" means a member in good standing of the American Academy of Actuaries.

(2) "Broker" means a person, other than an officer or employee of an insurer, who solicits, negotiates, or places reinsurance business on behalf of an insurer and who may not exercise the authority to bind reinsurance on behalf of that insurer.

(3) "Control" has the meaning described by Sections [823.005](#) and [823.151](#).

(4) "Insurer" means a commercially domiciled insurer or other person legally organized in this state to engage in the business of insurance as an insurance company, including:

- (A) a capital stock insurance company;
- (B) a mutual insurance company;
- (C) a title insurance company;
- (D) a fraternal benefit society;
- (E) a local mutual aid association;
- (F) a statewide mutual assessment company;
- (G) a county mutual insurance company;
- (H) a Lloyd's plan;
- (I) a reciprocal or interinsurance exchange;
- (J) a stipulated premium company;
- (K) a group hospital service corporation;
- (L) a farm mutual insurance company; and
- (M) a risk retention group.

(5) "Manager" means a person who has the authority to bind reinsurance or who manages all or part of the reinsurance business of an insurer, including the management of a separate division, department, or underwriting office, and who acts as an

agent for that insurer. The term does not include:

(A) an employee of the insurer;

(B) a manager of the United States branch of an alien insurer;

(C) an underwriting manager who, under a contract, manages all of the reinsurance operations of an insurer, who is under common control with the insurer under Chapter 823, and whose compensation is not based on the volume of premiums written; or

(D) a manager of a group, association, pool, or other organization of insurers who engages in joint underwriting or joint reinsurance and who is subject to examination by the insurance commissioner or other appropriate officer of the state in which the manager's principal business office is located.

(6) "Person" means an individual or a corporation, partnership, association, or other private legal entity.

(7) "Qualified United States financial institution" means an institution that is:

(A) organized or, in the case of a United States office of a foreign banking organization, licensed under the laws of the United States or a state; and

(B) regulated, supervised, and examined by United States federal or state authorities who have regulatory authority over banks and trust companies.

(8) "Reinsurance" means a written contract that for consideration transfers an insurance risk of loss between insurers and indemnifies a ceding insurer against all or part of the loss that the ceding insurer may sustain under an insurance policy the ceding insurer has issued or assumed. The term does not include a contract for the bulk sale, transfer, and assumption of direct insurance policy liability to the insureds.

(9) "Reinsurance intermediary" means a broker or manager.

(10) "Reinsurer" means an insurer who has the authority to assume reinsurance, including retrocessions. The term includes a retrocessionaire.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4152.002. CLASSIFICATION AS COMMERCIALY DOMICILED INSURER. (a) For purposes of this chapter, a foreign or alien insurer authorized to engage in the business of insurance in this state is a commercially domiciled insurer if during the period described by Subsection (b) the average of the gross premiums written by the insurer in this state is:

(1) more than the average of the gross premiums written by the insurer in the insurer's state of domicile; and

(2) 20 percent or more of the total gross premiums written by the insurer in the United States, as reported in the insurer's three most recent annual statements.

(b) The period applicable to Subsection (a) is:

(1) the three most recent fiscal years of the insurer that precede the fiscal year in which the determination under this section is made; or

(2) if the insurer has been authorized to engage in the business of insurance in this state for less than the period described by Subdivision (1), the period for which the insurer has been authorized to engage in the business of insurance in this state.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4152.003. RIGHTS OF THIRD PARTIES NOT AFFECTED. This chapter does not restrict the rights of or confer any additional rights on a policyholder, claimant, creditor, or other third party. Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4152.004. RULES. The commissioner may adopt reasonable rules as necessary to implement this chapter.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

SUBCHAPTER B. LICENSE REQUIREMENTS

Sec. 4152.051. LICENSE REQUIRED. (a) A person may not act as a broker or manager in this state for an insurer engaged in the business of insurance or reinsurance in this state unless the

person holds an appropriate license under this chapter.

(b) A person who holds a manager license is not required to obtain a broker license but must comply with Subchapter D to act as a broker.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4152.052. QUALIFICATIONS. The commissioner may establish qualifications for a reinsurance intermediary license as reasonably necessary to fulfill the requirements of this chapter.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4152.053. APPLICATION. (a) An application for a reinsurance intermediary license may not be accepted unless the application shows on its face that the applicant has been engaged in the business of insurance or reinsurance for at least three years.

(b) Each person authorized under Section [4152.057](#) to act as a reinsurance intermediary under a reinsurance intermediary license issued to an entity must be named in the application and any supplement to the application.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4152.054. SERVICE OF NOTICE, ORDERS, AND PROCESS. (a) An applicant for a reinsurance intermediary license who is not a resident of this state must:

(1) designate the commissioner as agent for service of process in the manner, and with the same legal effect, as provided by Chapter [804](#) for service of process on unauthorized insurers; and

(2) provide the commissioner with the name and address of a resident of this state on whom a notice or order of the commissioner or process affecting the applicant may be served.

(b) A license holder who is a nonresident shall notify the commissioner in writing of each change in the license holder's designated agent under Subsection (a)(2) not later than the 30th day after the date on which the license holder makes the change. The change does not take effect until acknowledged by the commissioner.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4152.055. FEES. (a) The department shall collect a nonrefundable licensing fee from each reinsurance intermediary who applies for an original or renewal license in this state.

(b) The commissioner shall set the fees for original, renewal, and reciprocal licenses in amounts that are reasonable and necessary to cover the costs of the licensing program.

(c) The fees shall be deposited to the credit of the Texas Department of Insurance operating account. Money deposited in the account under this subsection may be used by the department only to enforce this chapter.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4152.056. LICENSE ISSUANCE. The commissioner shall issue a reinsurance intermediary license to a person who complies with this chapter.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4152.057. PERSONS AUTHORIZED TO ACT UNDER LICENSE.

(a) A reinsurance intermediary license issued to a firm or association authorizes each member of the firm or association and any designated employee to act as a reinsurance intermediary under the license.

(b) A reinsurance intermediary license issued to a corporation authorizes each officer and any designated employee or director of the corporation to act as a reinsurance intermediary under the license.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4152.058. BOND OR ERRORS AND OMISSIONS POLICY. (a) The commissioner may require a reinsurance intermediary to:

(1) file a bond with the commissioner for the protection of all insurers represented; or

(2) maintain an errors and omissions policy.

(b) The issuer of the bond or the errors and omissions policy must be acceptable to the commissioner. The bond or the policy must be in an amount determined by the commissioner to be

customary and adequate under the circumstances.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4152.059. LICENSE EXPIRATION AND RENEWAL. (a) A reinsurance intermediary license is valid for two years from the date of issuance and may be renewed for two-year terms.

(b) The commissioner may adopt standards for the renewal of a reinsurance intermediary license.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

SUBCHAPTER C. EXAMINATION OF REINSURANCE INTERMEDIARIES

Sec. 4152.101. EXAMINATION BY COMMISSIONER. (a) A reinsurance intermediary is subject to examination by the commissioner of the reinsurance intermediary's:

(1) financial condition; and

(2) compliance with the laws of this state affecting the conduct of the reinsurance intermediary's business.

(b) A manager may be examined as if the manager were an insurer.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4152.102. ACCESS TO AND MAINTENANCE OF BOOKS, BANK ACCOUNTS, AND RECORDS. (a) The commissioner is entitled to access to all books, bank accounts, and records of a reinsurance intermediary.

(b) A reinsurance intermediary shall maintain books, bank accounts, and records in a form usable by the commissioner.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4152.103. CONDUCT OF EXAMINATION. The commissioner, one or more commissioned examiners, a certified public accountant, or another person qualified to perform the examination shall conduct an examination under this subchapter as the commissioner considers necessary.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4152.104. EXAMINATION EXPENSE. (a) A reinsurance intermediary who is examined under this subchapter shall pay an amount for the expense of the examination that the commissioner certifies as just and reasonable.

(b) Expenses relating to an examination conducted under this subchapter may be charged to the person examined in accordance with Sections [401.151](#), [401.152](#), [401.155](#), and [401.156](#).

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. [2636](#)), Sec. 2J.005, eff. April 1, 2009.

SUBCHAPTER D. REQUIREMENTS RELATING TO BROKERS

Sec. 4152.151. CONTRACT BETWEEN BROKER AND INSURER. (a) A broker and an insurer represented by the broker may enter into a transaction only under a written contract that:

(1) is executed by a responsible officer of both the broker and the insurer; and

(2) specifies the responsibilities of each party.

(b) At a minimum, a contract entered into under this section must:

(1) authorize the insurer to terminate the broker's authority in writing at any time;

(2) require the broker to:

(A) provide accounts to the insurer at least quarterly that accurately detail all material transactions, including information necessary to support all commissions, charges, and other fees received by or owing to the broker;

(B) pay all money due the insurer not later than the 30th day after the date of receipt;

(C) hold all money collected for the insurer's account in a fiduciary capacity in a bank that is a qualified United States financial institution; and

(D) if premiums or contributions are collected on behalf of or for more than one insurer:

(i) maintain records to identify the

ownership interest of each insurer in money held in a fiduciary capacity; and

(ii) provide to each insurer on request a copy of the records relating to deposits and withdrawals on behalf of or for that insurer;

(3) state that the broker will:

(A) comply with:

(i) Section 4152.153; and

(ii) the written standards established by the insurer for the cession or retrocession of risks ceded;

(B) disclose to the insurer any relationship with a reinsurer to which business will be ceded or retroceded; and

(C) provide annually to each insurer with whom the broker transacts business an audited statement of the broker's financial condition prepared by a certified public accountant;

(4) identify:

(A) the name and address of the insurer;

(B) the kinds of insurance to be reinsured or retroceded;

(C) the type of reinsurance or retrocessions; and

(D) the limits of coverage; and

(5) state the effective date and expiration date of the contract.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4152.152. PLACEMENT OF REINSURANCE WITH UNAUTHORIZED REINSURER. Unless the ceding insurer releases the broker in writing from the broker's obligations under this section, a broker who places reinsurance on behalf of an authorized ceding insurer with a reinsurer that is not authorized, accredited, or trustee in this state under Chapter 493 shall:

(1) exercise due diligence in inquiring into the financial condition of the reinsurer;

(2) disclose to the ceding insurer the broker's findings in connection with the inquiry under Subdivision (1); and

(3) make available to the ceding insurer a copy of the

current financial statement of the reinsurer.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. [2636](#)), Sec. 2J.006, eff. April 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 594 (S.B. [1070](#)), Sec. 3.14, eff. September 1, 2017.

Sec. 4152.153. TRANSACTION RECORDS. (a) For at least 10 years after the expiration of each contract of reinsurance transacted by a broker, the broker shall maintain a complete record for each transaction that contains:

(1) the type of contract, limits, underwriting restrictions, classes of risks, and territory;

(2) the period of coverage, including effective and expiration dates, cancellation provisions, and notice requirements regarding cancellation;

(3) reporting and settlement requirements regarding balances;

(4) the rate used to compute the reinsurance premium;

(5) the name and address of each ceding or assuming insurer;

(6) the rates of all reinsurance commissions, including the commissions on any retrocessions handled by the broker;

(7) related correspondence and memoranda;

(8) proof of placement;

(9) details regarding retrocessions handled by the broker, including the identity and address of each retrocessionaire and the respective percentage of each contract assumed or ceded;

(10) financial records, including premium and loss accounts; and

(11) if the broker procures a reinsurance contract on behalf of an authorized ceding insurer:

(A) written evidence that the assuming insurer has agreed to assume the risk if the contract is procured directly from an assuming insurer; or

(B) written evidence that the reinsurer has delegated binding authority to the representative who has agreed to assume the risk and that the representative is qualified to act as a manager under this chapter if the contract is procured through a representative of the assuming insurer, other than an employee.

(b) Each insurer subject to a contract of reinsurance transacted by a broker is entitled to access to the information maintained by the broker under Subsection (a) and may copy and audit all accounts and records maintained by the broker related to the insurer's business. The broker shall maintain the information in a form usable by the insurer.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4152.154. EMPLOYMENT OF PERSON BY INSURER AND BROKER. A person may not be employed by an insurer and a broker with whom the insurer transacts business unless the broker is:

- (1) under common control with the insurer; and
- (2) subject to Chapter [823](#).

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

SUBCHAPTER E. REQUIREMENTS RELATING TO MANAGERS

Sec. 4152.201. CONTRACT BETWEEN MANAGER AND INSURER. (a) A manager and an insurer represented by the manager may enter into a transaction only under a written contract that:

- (1) is executed by a responsible officer of both the manager and the insurer;
- (2) is approved by the insurer's board of directors or attorney in fact;
- (3) specifies the responsibilities of each party;
- (4) identifies the rate, terms, and purpose of each commission, charge, or other fee the manager may assess the insurer; and
- (5) at a minimum, incorporates the requirements of Sections 4152.202-4152.214.

(b) Not later than the 30th day before the date the insurer assumes or cedes business through the manager, a copy of the

executed contract must be filed with the commissioner for approval.
Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4152.202. TERMINATION OF CONTRACT. An insurer may:

(1) terminate a contract entered into under Section [4152.201](#) for cause on written notice to the manager by certified mail, return receipt requested; and

(2) suspend the authority of the manager to assume or cede business during any dispute regarding the cause for termination.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4152.203. ACCOUNTING FOR TRANSACTIONS. A manager who enters into a contract with an insurer under Section [4152.201](#) shall provide accounts to the insurer at least quarterly that accurately detail all material transactions, including information necessary to support all commissions, charges, and other fees received by or owing to the manager.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4152.204. MANAGEMENT OF MONEY. (a) A manager shall pay an insurer at least monthly all money due the insurer under a contract entered into under Section [4152.201](#).

(b) The manager must hold all money collected for the insurer's account in a fiduciary capacity in a bank that is a qualified United States financial institution. The manager may not retain more than three months of estimated claims payments and allocated loss adjustment expenses.

(c) If premiums or contributions are collected on behalf of or for more than one insurer, the manager shall:

(1) keep a separate account for each insurer;

(2) maintain a copy of the records for each account;

and

(3) provide to each insurer on request a copy of the records relating to deposits and withdrawals on behalf of or for that insurer.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4152.205. TRANSACTION RECORDS. (a) For at least 10 years after the expiration of each reinsurance contract transacted by a manager, the manager shall maintain a complete record for each transaction that contains:

(1) the type of contract, limits, underwriting restrictions, classes of risks, and territory;

(2) the period of coverage, including effective and expiration dates, cancellation provisions and notice requirements regarding cancellation, and disposition of outstanding reserves on covered risks;

(3) reporting and settlement requirements regarding balances;

(4) the rate used to compute the reinsurance premium;

(5) the name and address of each ceding or assuming insurer;

(6) the rates of all reinsurance commissions, including the commissions on any retrocessions handled by the manager;

(7) related correspondence and memoranda;

(8) proof of placement;

(9) details regarding retrocessions handled by the manager, as permitted by Section [4152.254](#), including the identity and address of each retrocessionaire and the respective percentage of each contract assumed;

(10) financial records, including premium and loss accounts; and

(11) if the manager procures a reinsurance contract on behalf of a ceding insurer:

(A) written evidence that the assuming insurer has agreed to assume the risk if the contract is procured directly from an assuming insurer; or

(B) written evidence that the reinsurer has delegated binding authority to the representative who has agreed to assume the risk and that the representative is qualified to act as a manager under this chapter if the contract is procured through a representative of the assuming insurer, other than an employee.

(b) Each insurer is entitled to access to the information maintained by the manager and may copy all accounts and records maintained by the manager related to the insurer's business. The manager shall maintain the information in a form usable by the insurer.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4152.206. CONTRACT ASSIGNMENT PROHIBITED. A manager may not assign in whole or in part a contract entered into under Section [4152.201](#).

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4152.207. COMPLIANCE WITH UNDERWRITING AND RATING STANDARDS OF INSURER. A manager shall comply with the written underwriting and rating standards established by an insurer with whom the manager has entered into a contract under Section [4152.201](#) for the acceptance, rejection, or cession of all risks.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4152.208. SETTLEMENT OF CLAIMS. (a) This section applies only to a contract entered into under Section [4152.201](#) that permits a manager to settle claims on behalf of an insurer.

(b) All claims must be reported to the insurer at least quarterly.

(c) The manager shall send a copy of the claim file to the insurer at the insurer's request or as soon as it is known that the claim:

- (1) has the potential to exceed the lesser of:
 - (A) an amount determined by the commissioner; or
 - (B) the limit set by the insurer;
- (2) involves a coverage dispute;
- (3) may exceed the manager's claims settlement authority;
- (4) has been open for more than six months; or
- (5) has been closed by payment of the lesser of:
 - (A) an amount determined by the commissioner; or
 - (B) the limit set by the insurer.

(d) A claim file is the joint property of the insurer and manager, except that on an order of liquidation of the insurer the file becomes the sole property of the insurer or the insurer's estate. The manager is entitled to reasonable access to the claim file and may copy the file on a timely basis.

(e) Any settlement authority granted to the manager may be terminated for cause on the insurer's written notice by certified mail, return receipt requested, to the manager or on the termination of the contract. The insurer may suspend the settlement authority during any dispute regarding the cause of termination.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4152.209. PAYMENT OF INTERIM PROFITS. If a contract entered into under Section [4152.201](#) provides for the sharing of interim profits by the manager, interim profits may not be paid until:

(1) the first anniversary of the end of each underwriting period for property business, the fifth anniversary of the end of each underwriting period for casualty business, or the expiration of the period set by the executive director for those or other specified kinds of insurance; and

(2) the adequacy of reserves on remaining claims has been verified under Section [4152.213](#).

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4152.210. AUDITED STATEMENT OF MANAGER'S FINANCIAL CONDITION. (a) A manager shall provide annually to each insurer and reinsurer with whom the manager transacts business an audited statement of the manager's financial condition.

(b) The statement must be prepared by an independent certified public accountant in a form acceptable to the commissioner.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4152.211. DISCLOSURE OF RELATIONSHIPS WITH OTHER INSURERS. Before ceding or assuming any business on behalf of an

insurer under a contract entered into under Section [4152.201](#), a manager shall disclose to the insurer any relationship the manager has with another insurer.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4152.212. ACTS OF MANAGER CONSIDERED ACTS OF INSURER. The acts of a manager are considered to be the acts of the insurer on whose behalf the manager is acting.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4152.213. ACTUARY'S OPINION ON ADEQUACY OF LOSS RESERVES. In addition to any other required loss reserve certification, a manager who establishes loss reserves shall provide annually, or more frequently as required by other law, an opinion from an actuary attesting to the adequacy of the loss reserves established for losses incurred and outstanding on business produced by the manager.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4152.214. PLACEMENT OF REINSURANCE WITH UNAUTHORIZED REINSURER. (a) Unless the ceding insurer releases the manager in writing from the manager's obligations under this section, a manager who places reinsurance on behalf of an authorized ceding insurer with a reinsurer that is not authorized, accredited, or trusted in this state under Chapter [493](#) shall:

(1) exercise due diligence in inquiring into the financial condition of the reinsurer;

(2) disclose to the ceding insurer the manager's findings in connection with the inquiry under Subdivision (1); and

(3) make available to the ceding insurer a copy of the current financial statement of the reinsurer.

(b) A ceding insurer that releases a manager from the manager's obligations under Subsection (a) assumes those obligations.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. [2636](#)), Sec. 2J.007,

eff. April 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 594 (S.B. 1070), Sec. 3.15, eff. September 1, 2017.

Sec. 4152.215. PROHIBITIONS. (a) A reinsurance intermediary acting as a manager may not:

(1) bind retrocessions on behalf of an insurer, except that the manager may bind facultative retrocessions under obligatory retrocessional agreements if the contract entered into with the insurer under Section 4152.201 contains reinsurance underwriting guidelines for those retrocessions that include:

(A) a list of reinsurers with whom those automatic agreements are in effect; and

(B) for each reinsurer:

(i) the coverages and amounts or percentages that may be reinsured; and

(ii) commission schedules;

(2) commit an insurer to participate in a reinsurance syndicate;

(3) appoint or contract with a broker without ensuring that the broker is qualified to act as a manager under this chapter;

(4) without prior approval of the insurer, pay or commit an insurer to pay a claim that exceeds the lesser of:

(A) an amount specified by the insurer; or

(B) one percent of the insurer's policyholders' surplus as of December 31 of the last complete calendar year; or

(5) collect a payment from a retrocessionaire or commit an insurer to a claim settlement with a retrocessionaire without prior approval of the insurer.

(b) If prior approval is given as provided by Subsection (a)(5), a report must be forwarded to the reinsurer as provided by Section 4152.203.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4152.216. EMPLOYMENT OF PERSON BY INSURER AND MANAGER. A person may not be employed by an insurer and a manager with whom the insurer transacts business unless the manager is:

- (1) under common control with the insurer; and
- (2) subject to Chapter [823](#).

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

SUBCHAPTER F. REQUIREMENTS RELATING TO INSURERS

Sec. 4152.251. ENGAGEMENT OF SERVICES OF UNLICENSED BROKER OR MANAGER. (a) Except as provided by Subsection (b), an insurer may not engage the services of a person to act as a broker or manager on the insurer's behalf unless the person holds a license if required by Section [4152.051](#).

(b) An insurer, or an employee, attorney, or actuary of an insurer, may negotiate and obtain reinsurance for that insurer without holding a broker or manager license or without using the services of a broker or manager if that insurer, employee, attorney, or actuary does not otherwise hold the person out as a broker or manager or perform the duties or provide the services of a broker or manager.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4152.252. AUDITED STATEMENT OF MANAGER'S FINANCIAL CONDITION. An insurer shall obtain annually an audited statement as provided by Section [4152.210](#) of the financial condition of each manager with whom the insurer transacts business.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4152.253. REVIEW OF UNDERWRITING AND CLAIMS PROCESSING OPERATIONS. An insurer shall conduct at least semiannually an on-site review of the underwriting and claims processing operations of a manager with whom the insurer enters into a contract under Section [4152.201](#).

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4152.254. AUTHORITY FOR RETROCESSIONAL CONTRACTS OR PARTICIPATION IN REINSURANCE SYNDICATES. Binding authority for all retrocessional contracts or participation in reinsurance syndicates rests with an officer of the insurer. That officer may

not be affiliated with a manager acting for the insurer.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4152.255. NOTIFICATION OF TERMINATION OF MANAGER'S CONTRACT. (a) Not later than the 30th day after the date an insurer terminates a manager's contract, the insurer shall provide written notice to the commissioner of the termination, including the reasons for termination.

(b) The notice is a privileged communication and is not subject to public disclosure or admission into evidence in any proceeding.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4152.256. APPOINTMENT OF CERTAIN PERSONS TO BOARD OF DIRECTORS PROHIBITED. (a) This section does not apply to a relationship governed by Chapter 823.

(b) An insurer may not appoint to the insurer's board of directors an officer, director, employee, controlling shareholder, or submanager of a manager acting for that insurer.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

SUBCHAPTER G. DISCIPLINE AND ENFORCEMENT

Sec. 4152.301. GROUNDS FOR LICENSE DENIAL OR DISCIPLINARY ACTION. The department may deny an application for a license or discipline a license holder under Subchapter C, Chapter 4005, if the department determines that the applicant or license holder, or a person who would be authorized to act on behalf of the applicant or license holder under Section 4152.057, has:

(1) wilfully violated or participated in the violation of this chapter or another insurance law of this state;

(2) intentionally made a material misstatement in the license application;

(3) obtained or attempted to obtain the license by fraud or misrepresentation;

(4) misappropriated, converted to the person's own use, or illegally withheld money required to be held in a fiduciary

capacity;

(5) materially misrepresented the terms or effect of any contract of insurance or reinsurance, or engaged in any fraudulent transaction; or

(6) been convicted of a felony or of a misdemeanor of which criminal fraud is an essential element.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4152.302. IMPOSITION OF SANCTIONS. (a) The commissioner may impose or seek any sanction authorized by law, including the penalties authorized by Chapters [82](#) and [83](#), against a reinsurance intermediary, insurer, or reinsurer who the commissioner determines, after notice and hearing as provided by this code, has violated this chapter.

(b) The commissioner may impose or seek any sanction authorized by law, including the penalties authorized by Chapter [101](#), against a nonlicensed reinsurance intermediary who violates this chapter.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.